IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6415 of 2007()

CRIME NO. 346/07 OF VATTIYOORKAVU POLICE STATION

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PETITIONER/ACCUSED:

GIRILAL KUMAR, S/O. VIJAYAKUMAR,
MAMPAZHAKUNNU, MANIKANDESWARAN WARD,
PEROORKADA VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6415 of 2007

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Dated this the 24th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. They had allegedly fallen in love and has got married after elopement. The relatives of both the bride and bridegroom were opposed to the marriage. The relatives have ultimately come around, but the relationship between the spouses appears to have turned sour.

2. The marriage took place on 28.9.2003. One child has been born in the wedlock. The petitioner, who was earlier only a painter at the time of marriage, has subsequently secured employment as a police constable. It is alleged that matrimonial cruelty of the culpable variety punishable under Section 498A I.P.C. had emanated from the petitioner against the defacto complainant. Therefore she was constrained to lodge a complaint before the police. Crime has been registered. The wife has narrated in detail the sufferings which she had endured at the hands of the petitioner. There are some indications to show that the back ache of the defacto complainant had

become worse on account of the alleged cruel behaviour of the petitioner. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. Because of the strain in the matrimonial relationship reckless and exaggerated allegations are being raised. The spouses had started residing separately on a couple of occasions only to settle the disputes and resume cohabitation later. The petitioner does not deserve to suffer the trauma of arrest and incarceration. He may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor does not oppose the application. In the nature of the contentions raised about the injuries suffered by the victim, the case diary was called for and perused by me. I note that the only specific allegation that can be seen from the medical records is that her back ache had aggravated because of the improper and objectionable conduct on the part of the petitioner. I am satisfied that subject to appropriate conditions the petitioner can be granted anticipatory bail. I take note of the reality that the arrest and incarceration of the petitioner is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner, I am satisfied.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 31.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 1.11.07, and 2.11.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 31.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 31.10.2007

as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 31.10.2007.

(R. BASANT)
Judge

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